



United States Marine Corps  
Marine Corps Systems Command  
2200 Lester Street  
Quantico, VA 22134-6050

MCSC CT 025  
J&A Number: 13,537.0

**Justification and Approval  
For Other than Full and Open Competition**

1. Contracting Activity

Marine Corps Systems Command (MARCORSYSCOM)  
Joint Mine Resistant Ambush Protected Vehicle Program Office (JMVP)  
2200 Lester Street  
Quantico, VA 22134

2. Description of Action Being Approved

The proposed action is to procure, using other than full and open competition, thirteen (13) Field Service Representatives (FSRs), for the thirty-five (35) fielded Z-Backscatter Van (ZBV) Military Trailer (Mil-Trailer) systems located within the Continental United States (CONUS) and Outside the Continental United States (OCONUS). Specifically, the proposed action will enable the purchase of sustainment support that includes: logistics, technical and field service, maintenance support, as well as operator and maintenance training. This procurement will provide supportability to the ZBV Mil-Trailer systems currently operating in Afghanistan and at various CONUS installations. This FSR support will be procured from the ZBV designer, developer and integrator, American Science and Engineering, Inc (AS&E), Billerica, Ma. In addition to designing and manufacturing the Z-Backscatter Van Mil-Trailer system, AS&E retains ownership of all technical data, material, and manufacturing processes required to perform these services.

3. Description of Supplies or Services

Items in this procurement include logistics support, technical support, field service support, warranty tracking, maintenance service support, parts tracking and delivery, and operator and maintenance training, all of which will allow the systems to be maintained and repaired, keeping the systems mission capable. The FSR sustainment support and parts delivery are necessary to operationally support CENTCOM's ZBV Mil-Trailer systems, which were procured via a USMC Contract with AS&E, and which are currently fielded in Afghanistan and CONUS. This new requirement is for the continued sustainment support of the systems as a follow-on effort to the existing contract with AS&E. The ZBV continues to be used at OCONUS and CONUS location checkpoints to scan large containers, in order to ensure that the containers are safe for entry into controlled areas. The existing contract for this action, M67854-06-C-5163, was awarded as a sole source urgent requirement, and is firm fixed price, and totals just over [REDACTED], for a base and two option years. The estimated dollar value of the new sole source ZBV Mil-Trailer sustainment effort, through AS&E, is for [REDACTED], and would cover a base and up to three option years. Marine Corps FY10 Operation and Maintenance (O&M) money, delineated in the chart below, will be used to fund the base year. The option years will be funded with O&M funds made available at the time the options are exercised. These amounts are extrapolations of

past FSR sustainment support originating from the aforementioned contract, and projections as anticipated for OCONUS and CONUS for the next four years.

Contract Year	Base	Option 1	Option 2	Option 3
Estimated Purchases				

4. Statutory Authority Permitting Other Than Full and Open Competition

The statutory authority permitting other than full and open competition is Title 10 U.S.C. Section 2304 (c) (1) as implemented by the Federal Acquisition Regulations (FAR) 6.302-1, "Only one responsible source and no other supplies or services will satisfy agency requirements."

5. Rationale Justifying Use of Cited Statutory Authority

AS&E is the sole designer, developer, and integrator of the Z-Backscatter Van (ZBV) Military Trailer (Mil-Trailer) system. As a result, AS&E is uniquely qualified to provide the complete range of services required. AS&E is also the only firm that possesses the technical data, drawings, and specifications necessary to fulfill the Government's requirements. Given AS&E involvement with the design, development, qualification, manufacturing, and continuing improvements of the Z-Backscatter Van Mil-Trailer system, AS&E has the original design intent, original engineering drawings, and the most recent design changes to provide services in support of the Z-Backscatter Van Mil-Trailer system. In addition, the technical data, material, and manufacturing processes required to perform these services were developed by AS&E, and the Government does not have any rights to this data. AS&E is the only vendor that has the capability to provide the required support services.

6. Description of Efforts Made to Solicit Offers from as Many Offerors as Practicable

There are no other viable options for the procurement of FSR support. This effort was synopsisized on December 07, 2009 and January 29, 2010 on FedBizOps in accordance with FAR 5.2. To date, two responses were received: one response from AS&E and one response from SAIC. After the synopsis was posted and vendors responded, it was discovered that the Government did not own the rights to the manuals or have any maintenance data. The Government then solicited a quote from AS&E for the purchase of rights to the restricted data and received a quote of [REDACTED]. Subsequently, the JMVP declined the purchase of data rights.

Given this fact, the responses were not evaluated based on legal decision that a sole source environment exists for this procurement. Additionally, a notice of intent to award sole source was publicized via FedBizOps on July 13, 2010 and to date, no responses have been received.

7. Determination of Fair and Reasonable Cost

In accordance with FAR 15.402, the Contracting Officer, along with assistance from the Program Manager, JMVP, shall ensure that all supplies and services ordered under this contract are procured at a fair and reasonable price. In addition, historical pricing data from prior purchases will assist in determining the price of the current spare parts lists at time of delivery order to be fair and reasonable. A comparison was done of the Marine Corps' historical cost-per-unit

compared to the Army's cost-per-unit for a similar ZBV Backscatter System from the same vendor. Although the Army's ZBV is based upon a Mercedes-Benz Van platform, and the USMC uses the Mil-Trailer, the sustainment requirements are very similar. The Army's sustainment cost information, was provided in a price negotiation memorandum for contract W52H09-08-D-0-393, for 52 Backscatter Vans and Sustainment. Included in the Army's price negotiation memorandum, is documentation that DCAA conducted labor rate reviews of all included labor categories and took no exception. After adjustments, the Marine Corps has a unit cost of [REDACTED] per year, while the Army's yearly cost is [REDACTED]. This general analysis serves as validation that the total price proposed will be fair and reasonable.

#### 8. Actions to Remove Barriers to Future Competition

On future acquisitions, data rights, if applicable, will be a part of every requirement, to ensure that the Government will possess everything needed to operate and maintain equipment independently, after the initial contract expires. Owning data rights will open up opportunities to numerous postential sources of supply, resulting in more options at more competitive prices.

#### 9. Market Research

As stated in paragraph 6, this requirement was synopsisized for full and open competition. The JMVP performed no additional market research for this requirement, beyond the research done that identified two potential vendors. AS&E owns the patents to the Z-Backscatter Van Mil-Trailer system and is the only source of supply for the system parts.

#### 10. Interested Sources

Notice of intent to award sole source was publicized via FedBizOps on July 13, 2010, and to date no responses have been received.

#### 11. Other Factors

N/A

### Technical/Requirements Certification

I certify that the facts and representations under my cognizance, which are included in this Justification and its supporting acquisition planning documents, except as noted herein, are complete and accurate to the best of my knowledge and belief.

Signature: [REDACTED]  
Name: MARK BILLOW  
Title: Project Officer

Date: 6 Aug 2010  
Phone No: [REDACTED]

### Legal Sufficiency Review

I have determined that this Justification is legally sufficient.

Signature: [REDACTED]  
Name: DAVID P. INGOLD

Date: 6 AUG 2010  
Phone No: [REDACTED]

### PCO Certification

I certify that this Justification is accurate and complete to the best of my knowledge and belief.

Signature: [REDACTED]  
Name: WILLIAM M. CARTIS

Date: 6 Aug 2010  
Phone No: [REDACTED]

### Competition Advocate Concurrence

Signature: [REDACTED]  
Name: STEPHEN J. CARACCILO  
Title: Assistant Commander, Contracts

Date: 10 AUG 2010  
Phone No: [REDACTED]

### MCSC Execute Director: Approval

Upon the basis of the above justification, I hereby approve, as designee of the Head of the Contracting Activity, the solicitation of the proposed procurement(s) described herein using other than full and open competition, pursuant to the authority of Title 10 U.S.C. 2304(c)(1).

Signature: [REDACTED]  
Name: DR. JOHN D. BURROW

Date: 29 Aug 2010